

DDA 79-0012/1  
15 JAN 1979

ATTACHMENT

MEMORANDUM FOR: [REDACTED]  
Office of Legislative Counsel

FROM : F. W. M. Janney  
Director of Personnel

SUBJECT : Draft Legislation "Classification and Compensation  
Act of 1979"

REFERENCE : Your memo (OLC 78-3766/1) dtd 29 Dec 78, same subj.

1. We have reviewed the draft of the "Classification and Compensation Act of 1979" and the summary of the Act provided with the reference. While there is obviously not time for an in-depth analysis within the time allotted, we have attempted in this memorandum and its attachment to highlight some of the major changes in the proposed legislation, their possible impact on the Agency and some of the options available to the Agency. Because many of the provisions of the proposed legislation as drafted are written in fairly broad and general terms, with many of the details still to be worked out, it will be some time before the full impact of the legislation can be properly evaluated. However, three aspects of the proposed legislation are immediately apparent:

a. The proposed Act is very comprehensive and complex and if adopted would require such sweeping changes in the administration of the Agency's pay, position classification and allowance systems that it will require very close monitoring by the Agency, particularly OLC, OGC, and the Office of Personnel.

b. The changes proposed will have a major impact on the Agency personnel records and reporting system such as PERSIGN, the computer based integrater personnel records and reporting system that has been under development for several years and scheduled for implementation in 1979.

c. Regardless of any action required by the Agency as a result of this legislation we must remain exempt from the Act in order to retain the flexibility required to meet the special operational requirements of the Agency.

2. Our current pay and classification system is based primarily on the General Schedule System. Although the Agency chose not to adopt the General Schedule system per se, the Agency did adopt a separate but

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parallel pay system that includes those aspects of the General Schedule System that are compatible to Agency requirements and adapted those aspects of the General Schedule that required modification to meet the special requirements of the Agency. Since the proposed legislation would eliminate the General Schedule that is the basis for our pay and classification system, the Agency would have several options available to it. All the options are presented on the assumption that the Agency would remain exempt from the Act.

Option I: Adopt the provisions of the "Classification and Compensation Act of 1979".

Option II: The Agency establish and administer a separate compensation and classification system.

Option III: Adopt the major portions of the Act as the basic structure for the Agency compensation and classification but retaining the prerogative to adapt those aspects of the legislation as required when they are not compatible with Agency requirements.

Option IV: Do nothing and retain the current GS compensation and classification system.

Some of the advantages and disadvantages of the above options are outlined below:

Option I - Advantages

(a) The Agency would have the benefits of following the implementing guidelines and procedures established by the Office of Personnel Management (OPM) which would make the administration of the system easier and less costly.

(b) Any changes in the rates of pay and benefits would automatically be applied to the Agency.

Option I - Disadvantages

(a) It would not provide the flexibility required by the Agency to respond quickly to meet new and unique personnel requirements placed on the Agency.

(b) It would restrict the ability of the Agency to hire and provide special pay and benefits for the various categories of personnel that are required by the Agency to meet our special operational and cover requirements, such as career associates and other operational assets.

(c) Require a complete new record and reporting system and complete reprogramming of the new integrated computer based system.

Option II - Advantages

(a) It would provide the Agency with the flexibility it needs to meet its special operational requirements.

(b) Establish pay and classification system that would be specifically designed to meet the needs of this Agency.

Option II - Disadvantages

(a) It would require a detailed study, probably of at least two years duration to establish a separate system to meet Agency requirements. Once established it would require a considerable staff to set up and maintain implementing regulations, procedures and guidelines (similar to the Federal Personnel Manual) to insure equitable administration of the system.

(b) Although it is not clear from the proposed legislation, the current wording implies that even if the Agency did create its own system the approval of "President's Compensation Agent" may be required for any separate pay system.

(c) Requires a complete new computer based record and report system.

Option III - Advantages

(a) It would keep the Agency pay and benefits on a comparable basis with the rest of the Federal Government.

(b) Any changes in the pay schedules and other benefits would be automatically applied to the Agency, and thereby eliminate the need for independent action by the Agency in order to obtain comparable benefits.

(c) The Agency would retain the flexibility required to modify the pay and compensation system to meet special operational requirements.

Option III - Disadvantages

It would tie the Agency to a pay comparability system that is designed to restrict increase in pay and benefits and therefore would inhibit our recruiting ability.

Option IV - Advantages

(a) It would retain our current flexibility to administer our own pay and classification system in accordance with the needs of the Agency.

(b) It would be less costly initially since no major changes would be required immediately in the personnel administration and reporting procedures.

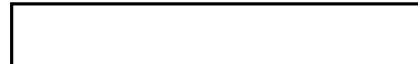
Option IV - Disadvantages

(a) Since the GS Schedule which is the basis of our pay and classification system would be eliminated, it would require the Agency to administer the system on its own, without the benefit of the guidance and services normally provided by OPM.

(b) It would single out the Agency as being different from the rest of the Government and would probably not be favorably received by the Congressional Oversight Committees.

(c) It would require special action on the part of the Agency and possible approval by the "President's Compensation Agent" to effect changes required to keep our pay system on a comparable and competitive basis with Federal and non-Federal sectors.

3. In summary it appears that Option III would be the most viable for the Agency since it would keep the Agency and its pay system on a comparable basis with both the Federal and non-Federal sectors; the Agency would receive the benefits of any changes in the pay schedules without separate action on the part of the Agency, and the Agency would retain the flexibility required to meet its special operational requirements.



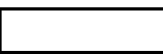
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F. W. M. Janney

Attachment

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AT OP/P&C/RS/  :cmc (11 Jan 79)

OFFICE OF PERSONNEL'S INITIAL REVIEW OF  
PROPOSED DRAFT LEGISLATION "THE CLASSIFICATION  
AND COMPENSATION ACT OF 1979"

(Review summary prepared by  OP/PMBD)

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This package, if adopted by Congress, will represent major surgery of the Classification Act of 1949. The two other intervening modifications, Pay Comparability in 1962 and FES in 1974, had significantly less impact than is proposed here. Since this is a very involved piece of legislation and certain provisions are much more significant than others, only these are addressed. All agencies presently subject to the Classification Act continue to be covered and no new agencies are added. The reference to the Atomic Energy Commission is changed to Nuclear Regulatory Commission to reflect reorganization. The CIA remains exempt.

Classification Plan

While the Classification Plan and the Compensation Plan are separate, the two are highly integrated and any change in one effects the other. Most of the changes proposed are necessary to implement the desired overhaul of the salary schedule, although there is a significant departure from the way in which the Classification Act of 1949 specified positions be graded.

Section 5105 of the 1949 Act is a "standard for standards" which consists of very broad verbal definitions describing the complexity of duties and levels of responsibility typical of positions at grades GS-01 through GS-18. Presumably this has been the yardstick used by the Division of Standards (CSC) in slotting into the GS Schedule the various class levels identified within a series. The bill would abolish this criteria, and to that extent modify the "equal pay for equal work" concept that has existed.

While the abandonment of a single pay schedule (GS) would necessitate a modification of the "standard for standards" approach, it appears that other objectives are sought relative to grade alignment. The two aspects of pay alignment considering pay administration, generally are internal (job structure) and external (pay level). Until now the 1949 Act has specified that only internal alignment should be considered when slotting classes in the pay schedule.

In attempting to maintain pay comparability by fitting survey data to a pay curve established through internal alignment, the Commission has sometimes been criticized for distorting external pay relationships. In other words this methodology, while maintaining internal equity,

could result in underpayment or overpayment of certain classes of positions with respect to the employment market. By abandoning the "standard for standards" and factoring in external alignment, a significant new option would be available for changing the grade structure. Conceivably, for example, if survey data indicated that clerical positions were overpaid or computer specialist positions were underpaid, standards could be adjusted to lower or raise grade criteria. In theory this would make the Federal Pay System more responsive to technological changes in occupations and shifts in the employment market, but its effect on traditional relationships existing among groups of positions would be hard to predict.

### Pay Schedules

The GS Schedule, as we know it, would be divided into two new schedules:

- Professional and Administrative Service (PAS)
- Clerical and Technical Service (CTS)

The concept of separate schedules for broad families of occupations is not new and existed in a different form prior to the 1949 Act. The primary reason for again splitting the schedule is because it has been determined that a "warp" exists in the salary structure which tends to flatten the pay curve, thus perhaps overpaying clericals and underpaying professionals. Separate pay lines would result from this proposal thus allowing survey data to be compared with Federal benchmarks according to homogenous categories of positions.

A major departure from the older plan of separate schedules is that each of those were nation-wide whereas in this case the PAS Schedule would remain nation-wide, and CTS would be geared to locality rates, much like the present WG Schedule. While it is not clear in the written material, discussions with CSC officials suggest that separate CTS Schedules would probably be established within each of the ten Federal Regions. The thinking behind CTS regional rates is that clericals in rural areas may be overpaid and that salaries for similar positions in metropolitan areas may be too low. It does not appear that any of these changes would affect special compensation features accruing to overseas personnel falling within this schedule.

Another underlying assumption is that uniform nation-wide salaries are appropriate for professionals because they are mobile, whereas differentiated rates are best suited to clericals because they tend to stay put.

If the Agency wished to maintain uniform clerical rates in rotational positions, this should not pose a problem since CIA is excluded and the DCI is empowered to adopt special pay schedules.

Even if CIA were covered, however, a provision is included which allows for Special Occupational Services where labor markets or employment conditions cannot be accommodated effectively under PAS or CTS.

Two other significant changes proposed are: (1) to reverse the numbering sequence used for grades in PAS and (2) substitute the concept of "pay level" for "pay range" in some cases. Additional options would be provided for the possible division of PAS into a nonsupervisory and supervisory structure and the use of separately stated salary rates and/or the introduction of a "rank-in-the-person" provision, possibly like the Agency PRA concept.

Since, within the present GS Schedule, there is an overlapping of grades between clerical and professional classes at the GS-05 through GS-09 levels, the new PAS and CTS Schedules will not reflect discrete breaks in salary from the top of CTS to the beginning of PAS. Although the written material did not furnish details on this, we are informed that the grade structure among the schedules will relate something like this.\*

<u>PRESENT</u>		<u>PROPOSED</u>
<u>GS Schedule</u>	<u>PAS Schedule</u>	<u>CTS Schedule</u>
GS-01		CTS-1
GS-02		CTS-2
GS-03		CTS-3
GS-04		CTS-4
GS-05	PAS-14	CTS-5
GS-06	PAS-13	CTS-6
GS-07	PAS-12	CTS-7
GS-08	PAS-11	CTS-8
GS-09	PAS-10	CTS-9
GS-10	PAS-9	
GS-11	PAS-8	
GS-12	PAS-7	
GS-13	PAS-6	
GS-14	PAS-5	
GS-15	PAS-4	
GS-16	PAS-3	
GS-17	PAS-2	
GS-18	PAS-1	

\*This table relates grades only since it is impossible to predict salary relationships in terms of the new methodology.

## Survey Approach and Methodology

### PAS-CTS Schedules

Concurrent with new grading techniques and revised salary schedules this bill would modify the way in which pay surveys are conducted and clarify the authority for implementing compensation changes. Presently the system is badly fragmented with the Bureau of Labor Statistics conducting the Pay Survey, CSC massaging the data, and the President often appointing various ad hoc panels to review and adjust recommendations. The President now has pay setting authority subject to veto within a specific time by Congress, but Congress retains exclusive rights over benefits or perquisites.

In order to streamline the existing process and to give the President special authority to adjust executive branch pay and benefit systems, a "Compensation Agent" would be appointed, consisting of the Director, Office of Personnel Management (Chairperson), Secretary of Labor and Director of OMB. In addition, a "Total Compensation Advisory Panel" would be appointed to review the recommendations of the "Compensation Agent". Based on this advice the President would be given authority to group employees as appropriate and adjust pay and benefit levels for specific categories to achieve appropriate "National Compensation".

Pay survey methodology would be changed in four ways. First the data base would be broadened to include "non-federal pay" (state and local government). Secondly, the concept of "total compensation" would be introduced (the combined value of pay and benefits). Third, the pay and benefit data for clerical positions (CTS) would be gathered, segregated and analyzed on a regional basis. Fourth, the minimum requirement for BLS to conduct Federal wage surveys would be lengthened from two to three years (presently done every year).

It is difficult to assess the impact of this new formula on Federal pay levels as the Pay Systems Planning Group is not sure themselves. They have done considerable study, met with industry compensation experts and tried to simulate the impact with little success. The following estimates are made on a best guess basis:

- ° Clerical salaries will likely drop in less populated areas. Salary differentials for the same grade would probably be indexed among regions.
- ° Middle and top level professional salaries will probably increase when the clerical pay bias is removed from the salary curve.



- While the weighting of "non-federal" employees vis-a-vis private industry is not known, one gets the impression that state and local salaries would be incorporated on a limited basis for unique occupations and that they may have only a slight effect in lowering the survey trend line.
- The introduction of "total compensation" methodology has an unknown impact. Private sector compensation experts are evenly divided as to whether Federal benefits exceed private benefits or vice versa. Some private "perqs" such as profit sharing will be hard to obtain. If Congress does not relinquish to the President authority to set benefit levels, then salaries will be the variable used to balance total compensation inequities.

#### WG Schedules

The proposed changes to the WG survey methodology are much simpler. Basically, the bill repeals the "Monroney Amendment" which requires approaches often criticized for maintaining excessive federal "Blue Collar" salaries. In summary the changes are as follows:

- Wage rate data gathered in the future would be within the respective Federal region only whereas in the past out-of-area rates were factored in to richen the data base.
- At present, the second quartile of survey data is used as a benchmark for the Federal raise minimum and that would shift to minimum survey data.
- Prescribed waiting periods within each nonsupervising grade would be abolished.
- The requirement for uniform 7.5 to 10 percent second and third shift differentials would be discontinued.
- The survey data base, as in PAS and CTS, would be expanded to include state and local governments.
- Wage survey requirements, again like PAS and CTS, would be changed from a minimum of every second to every third year.

#### Compensation Rules

A number of rule changes are proposed effecting compensation, some general and others specialized in nature. For example, a

distinction is proposed in the rate of salary advancement (acceptable performance increase) for employees in PAS vis-a-vis CTS. PAS pay advancement remains essentially the same as GS where an employee with an acceptable level of performance would receive incremental adjustments at intervals of 52 weeks for the first third of the range, 104 weeks for the second third and 156 weeks for the remaining third. Pay rate advancement would be accelerated in CTS where an employee with the same level of performance would be eligible after 52 weeks up until the mid-point to maximum. A new feature added to both systems is that an employee whose work has been rated at less than an acceptable level may request reconsideration.

#### Premium Pay

Following is a summary of the major changes in Premium Pay provisions:

- This bill would extend the concept of hours of work suffered or permitted under FLSA to Title V, expand work definitions to include paid absences from duty, and make "hours of work" equal to FLSA.
- Overtime payments would be allowed for work only in excess of 40 hours in a workweek, as opposed to the present provision of work in excess of eight hours in a day. This facilitates the new concept of compressed work schedules.
- Nonexempt employees would be paid at 1 1/2 their hourly rate of regular pay, as under FLSA, eliminating present requirement for computing overtime pay under two laws to determine which is the higher overtime entitlement. This would provide employees under Title V overtime pay equal to or greater than under FLSA.
- Exempt employees would be paid for overtime "at rates to be prescribed by the Office of Personnel Management". Since most professional and administrative employees are exempt at grades GS-09 and above, this seems to suggest that reduced rates would be possible. Presently 1 1/2 times basic hourly pay is payable at rates not exceeding the minimum rate for GS-10.
- For nonexempt employees, <sup>FLSA Conditions for</sup> travel time would be considered hours of duty for ~~FLSA purposes~~. Exempt employees' compensation for time spent in travel status during overtime hours would be compensated

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under conditions and rates prescribed by OPM under the general provisions of Section 5542 (a) Title V. What "may be prescribed" is not specified.

- Compensatory time off is discretionary on the part of the agency head for exempt employees (formerly for employees whose basic pay exceeded the maximum rate of GS-10, for irregular or occasional overtime) and at the request of nonexempt employees. Since most GS-09 professional and administrative employees are exempt, this could increase the number of employees for whom compensatory time off is discretionary, and thus reduce pay costs if the agency head so decided.
- Any nonovertime night work would be compensated for by night pay, which is presently limited to regularly scheduled work.
- Limitation of annual premium pay for standby duty and administratively uncontrollable work to exempt and nonexempt protectives is new. Nonexempts other than protectives presumably would be compensated at regular 1 1/2 overtime rates. Wage Grade employees also would be excluded from annual premium pay.
- Limitation of Sunday pay for nonovertime work to actual hours worked or one period of service, eliminating entitlement to pay for two Sunday shifts, reduces current expenditures.
- Removing limitation on aggregate compensation to maximum rate for PAS-4 (equivalent to GS-15) from nonexempts would parallel FLSA. Presumably this would not increase costs much, since most nonexempts are GS-09 and below.
- Presently premium pay on an annual basis for standby or administratively uncontrollable overtime is payable for not more than 60 prescribed workdays on temporary assignment to a formally approved program for advanced training duty directly related to duties for which premium pay on an annual basis is payable. The proposed legislation authorizes payment of premium pay to nonexempts when the period of training is by, or through a Government facility. On the one hand, the proposal lessens the restrictions on trainees, but on the other hand it restricts the authorization to nonexempts, so the net result in terms of cost is not readily apparent.

- ° Prevailing rate employees, including those paid from appropriated and nonappropriated funds, are brought under the premium pay provisions for entitlement to and computation for overtime, Sunday and holiday pay. They would receive overtime pay for standby duty, holiday and call-back overtime pay under different provisions or authority than in the past.
- ° Special Occupational Service employees such as fire-fighters, law enforcement employees, and others will have their premium pay established by the President's Compensation Agent. Special project employees (undefined herein) would have their premium pay governed by regulations of OPM. The impact of these changes is not known, nor are the controlling regulations.
- ° A new proposed Chapter 50 would authorize the President to establish, modify, or abolish Federal executive branch pay systems, premium pay and allowance provisions and require the President's Compensation Agent to periodically review and recommend changes in all Federal executive branch pay systems, premium pay and allowances provisions.

#### Implementation

If enacted into law this year, the President has up until three years to implement CTS and five years to implement PAS. Given all the adjustments which would be required in survey methodology, data base, internal standards and regulations, the maximum time would probably be required.